



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART III

SATISFACTION AND ENFORCEMENT

Sums adjudged to be paid by a conviction

82 Restriction on power to impose imprisonment for default.

- (1) A magistrates' court shall not on the occasion of convicting an offender of an offence issue a warrant of commitment for a default in paying any sum adjudged to be paid by the conviction unless—
 - (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
 - (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
 - (c) on the occasion of that conviction the court sentences him to immediate imprisonment [^{F1}, youth custody] or detention in a detention centre for that or another offence or he is already serving [^{F2}a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982] or detention in a detention centre.
- (2) A magistrates' court shall not in advance of the issue of a warrant of commitment fix a term of imprisonment which is to be served by an offender in the event of a default in paying a sum adjudged to be paid by a conviction, except where it has power to issue a warrant of commitment forthwith, but postpones issuing the warrant under section 77(2) above.
- (3) Where on the occasion of the offender's conviction a magistrates' court does not issue a warrant of commitment for a default in paying any such sum as aforesaid or fix a term of imprisonment under the said section 77(2) which is to be served by him in the event of any such default, it shall not thereafter issue a warrant of commitment for any such default or for want of sufficient distress to satisfy such a sum unless—

Status: Point in time view as at 11/12/2013. This version of this provision has been superseded.

Changes to legislation: Magistrates' Courts Act 1980, Section 82 is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) he is already serving [^{F2}a sentence of custody for life, or a term of imprisonment, youth custody, detention under section 9 of the Criminal Justice Act 1982]or detention in a detention centre; or
 - (b) the court has since the conviction inquired into his means in his presence on at least one occasion.
- (4) Where a magistrates' court is required by subsection (3) above to inquire into a person's means, the court may not on the occasion of the inquiry or at any time thereafter issue a warrant of commitment for a default in paying any such sum unless—
- (a) in the case of an offence punishable with imprisonment, the offender appears to the court to have sufficient means to pay the sum forthwith; or
 - (b) the court—
 - (i) is satisfied that the default is due to the offender's wilful refusal or culpable neglect; and
 - (ii) has considered or tried all other methods of enforcing payment of the sum and it appears to the court that they are inappropriate or unsuccessful.
- [^{F3}(4A) The methods of enforcing payment mentioned in subsection (4)(b)(ii) above are—
- (a) a warrant of distress under section 76 above;
 - (b) an application to the High Court or county court for enforcement under section 87 below;
 - (c) an order under section 88 below;
 - (d) an attachment of earnings order; and
 - (e) if the offender is [^{F4}under the age of 25], an order undersection 17 of the Criminal Justice Act 1982(attendance centre orders).]

[^{F5}(4B) The cases in which the offender's default may be regarded for the purposes of subsection (4)(b)(i) as being attributable to his wilful refusal or culpable neglect include any case in which—

 - (a) he has refused, otherwise than on reasonable grounds, to consent to a work order proposed to be made under Schedule 6 to the Courts Act 2003 (discharge of fines by unpaid work), or
 - (b) he has without reasonable excuse failed to comply with such an order.]

(5) After the occasion of an offender's conviction by a magistrates' court, the court shall not, unless—

 - (a) the court has previously fixed a term of imprisonment under section 77(2) above which is to be served by the offender in the event of a default in paying a sum adjudged to be paid by the conviction; or
 - (b) the offender is serving [^{F2}a sentence of custody for life, or a term of imprisonment, youth custody, detention undersection 9 of the Criminal Justice Act 1982]or detention in a detention centre,

issue a warrant of commitment for a default in paying the sum or fix such a term except at a hearing at which the offender is present.

[^{F6}(5A) A magistrates' court may not issue a warrant of commitment under subsection (5) above at a hearing at which the offender is not present unless the [^{F7}designated officer for] the court has first served on the offender a notice in writing stating that the court intends to hold a hearing to consider whether to issue such a warrant and giving the reason why the court so intends.

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- (5B) Where after the occasion of an offender's conviction by a magistrates' court the court holds a hearing for the purpose of considering whether to issue a warrant of commitment for default in paying a sum adjudged to be paid by the conviction, it shall consider such information about the offender's means as is available to it unless it has previously—
- (a) inquired into the offender's means; and
 - (b) postponed the issue of the warrant of commitment under section 77(2) above.
- (5C) A notice under subsection (5A) above—
- (a) shall state the time and place appointed for the hearing; and
 - (b) shall inform the offender that, if he considers that there are grounds why the warrant should not be issued, he may make representations to the court in person or in writing,
- but the court may exercise its powers in relation to the issue of a warrant whether or not he makes representations.
- (5D) Except as mentioned in subsection (5E) below, the time stated in a notice under subsection (5A) above shall not be earlier than 21 days after the issue of the notice.
- (5E) Where a magistrates' court exercises in relation to an offender the power conferred by section 77(2) above and at the same hearing issues a notice under subsection (5A) above in relation to him, the time stated in the notice may be a time on any day following the end of the period for which the issue of the warrant of commitment has been postponed.
- (5F) A notice under subsection (5A) above to be served on any person shall be deemed to be served on that person if it is sent by registered post or the recorded delivery service addressed to him at his last known address, notwithstanding that the notice is returned as undelivered or is for any other reason not received by that person.]
- (6) Where a magistrates' court issues a warrant of commitment on the ground that one of the conditions mentioned in subsection (1) or (4) above is satisfied, it shall state that fact, specifying the ground, in the warrant.

Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 52(a)**
- F2** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 52(b)**
- F3** S. 82(4A) added (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 61(3) (with s. 123(6), Sch. 8 para. 16)
- F4** Words in s. 82(4A)(e) substituted (1.10.1997) by 1997 c. 43, s. 55(1), **Sch. 4 para. 10(1)**; S.I. 1997/2200, **art. 2(1)(l)(2)(e)**
- F5** S. 82(4B) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, **Sch. 8 para. 220(2)**; S.I. 2005/910, **art. 3(y)**
- F6** S. 82(5A)-(5F) added (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 61(4) (with s. 123(6), Sch. 8 para. 16)
- F7** Words in s. 82(5A) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, **Sch. 8 para. 220(3)**; S.I. 2005/910, **art. 3(y)**

Modifications etc. (not altering text)

- C1** S. 82 amended (1.10.1997) by 1997 c. 43, s. 55(2); S.I. 1997/2200, **art. 2(1)(m)**

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